

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	CASE NO. 8:10CR51
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
DEANDRE L. SMITH,)	
)	
Defendant.)	

This matter is before the Court on the Defendant's motion for reconsideration (Filing No. 42) from this Court's Memorandum and Order and Judgment denying his motion filed under 28 U.S.C. § 2255.

The Court denied the motion because no facts were stated in support of the Defendant's claims. In the motion to reconsider, the Defendant, Deandre L. Smith, assumes the Court also denied his motion as untimely. He also states that he mailed an accompanying brief with his motion. However, a brief was never received by the Court.

The Court did not deny the § 2255 motion as untimely. In fact, the Court noted that the motion was timely filed. Smith is correct when he states that a brief is not required to accompany a § 2255 motion. The § 2255 form clearly states: "State the facts supporting each ground," and similar instructions are given where the petitioner lists each ground: "Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.)" (See, e.g., Filing No. 39, at 5.) The form clearly directed Smith to provide facts supporting his claims, and he neglected to do so on the form as instructed. A brief was not required.

Therefore,

IT IS ORDERED:

1. The Defendant's motion for reconsideration (Filing No. 42) is denied; and
2. The Clerk is directed to mail a copy of this Order to the Clerk at his last known address.

DATED this 11th day of October, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge